

**CHAPTER 1186**  
**JUVENILE JUSTICE CODE**  
*H.F. 2363*

**AN ACT** amending the juvenile justice code by applying statutes of limitations to delinquency cases, retaining juvenile court jurisdiction for one year beyond the attachment of jurisdiction, providing for the appointment of separate guardians ad litem, providing that adults under the juvenile court's jurisdiction are not bailable but must be detained separately from other adults, providing for chemical dependency evaluations as either physical or mental examinations, providing for the application of civil commitment procedures in delinquency cases, establishing standards of proof for certain proceedings removing persons from the home, providing for the submission of social investigation reports prior to the entering of child-in-need-of-assistance dispositions, providing for involuntary termination of parental rights under certain conditions involving ineffectiveness of corrective services, and providing for appeals of delinquency cases after disposition.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 232.8, subsection 1, unnumbered paragraph 1 and paragraphs a and b, Code 1985, are amended to read as follows:

The juvenile court ~~shall have~~ has exclusive original jurisdiction in proceedings concerning ~~any a~~ child who is alleged to have committed a delinquent act unless otherwise provided by law, and ~~shall have~~ has exclusive original jurisdiction in proceedings concerning an adult who is alleged to have committed a delinquent act prior to having become an adult, provided that the taking of that person into custody for the alleged act or the filing of a delinquency petition alleging the commission of the act occurs within the time periods and under the conditions specified in chapter 802.

a. ~~Less than one year after the alleged commission of an act which would be a simple misdemeanor if committed by an adult; or~~

b. ~~Less than two years after the alleged commission of an act which would be an offense other than a simple misdemeanor if committed by an adult.~~

Sec. 2. Section 232.8, subsection 1, Code 1985, is amended by adding the following new unnumbered paragraph immediately after paragraph b:

NEW UNNUMBERED PARAGRAPH. The juvenile court has jurisdiction over such an adult for one year beyond the last date upon which jurisdiction over the adult attaches under this subsection.

Sec. 3. Section 232.22, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 5. An adult within the jurisdiction of the court under section 232.8, subsection 1, who has been placed in detention, is not bailable under chapter 811. If such an adult is detained in a room in a facility intended or used for the detention of adults, the adult shall be confined in a room entirely separated from adults not within the jurisdiction of the court under section 232.8, subsection 1.

Sec. 4. Section 232.49, subsection 1, Code 1985, is amended to read as follows:

1. Following the entry of an order of adjudication under section 232.47 the court may, after a hearing which may be simultaneous with the adjudicatory hearing, order a physical or mental examination of the child if it finds that an examination is necessary to determine the child's physical or mental condition. The court may consider chemical dependency as either a physical or mental condition and may consider a chemical dependency evaluation as either a physical or mental examination.

Sec. 5. Section 232.51, Code 1985, is amended to read as follows:

**232.51 DISPOSITION OF MENTALLY ILL OR MENTALLY RETARDED CHILD.**

If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally ill, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court. ~~Such~~ These proceedings in the juvenile court shall adhere to the requirements of chapter 229. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally retarded, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court. ~~Such~~ These proceedings shall adhere to the requirements of chapter 222. ~~In the event~~ If the child is committed as a mentally ill or mentally retarded child, any order adjudicating the child to have committed a delinquent act shall be set aside and the petition shall be dismissed.

Sec. 6. Section 232.82, subsection 1, Code 1985, is amended to read as follows:

1. Notwithstanding section 561.15, if it is alleged by a person authorized to file a petition under section 232.87, subsection 2, or by the court on its own motion, that a parent, guardian, custodian, or an adult member of the household in which a child resides has committed a sexual offense with or against the child, pursuant to chapter 709 or section 726.2, the juvenile court may enter an ex parte order requiring the alleged sexual offender to vacate the child's residence upon a showing that probable cause exists to believe that the sexual offense has occurred and that substantial evidence exists to believe that the presence of the alleged sexual offender in the child's residence presents a danger to the child's life or physical, emotional, or mental health.

Sec. 7. Section 232.89, subsection 4, Code 1985, is amended to read as follows:

4. The same person may serve both as the child's counsel and as guardian ad litem. However, the court may appoint a separate guardian ad litem, if the same person cannot properly represent the legal interests of the child as legal counsel and also represent the best interest of the child as guardian ad litem.

Sec. 8. Section 232.95, subsection 2, paragraph a, unnumbered paragraph 1, Code 1985, is amended to read as follows:

Remove the child from home and place the child in a shelter care facility or in the custody of a suitable person or agency pending a final order of disposition if the court finds that substantial evidence exists to believe that removal is necessary to avoid imminent risk to the child's life or health.

Sec. 9. Section 232.97, subsection 1, Code 1985, is amended to read as follows:

1. The court shall not make a disposition of the petition until two working days after a social report has been submitted to the court and counsel for the child and has been considered by the court. The court may waive the two-day requirement upon agreement by all the parties. The court may direct either the juvenile court officer or the department of human services or any other agency licensed by the state to conduct a social investigation and to prepare a social report which may include any evidence provided by an individual providing foster care for the child. A report prepared shall include any founded reports of child abuse.

Sec. 10. Section 232.98, subsection 1, unnumbered paragraph 1, Code Supplement 1985, is amended to read as follows:

Except as provided in section 232.78, subsection 4, a physical or mental examination of the child may be ordered only after the filing of a petition pursuant to section 232.87 and after a hearing to determine whether an examination is necessary to determine the child's physical or mental condition. The court may consider chemical dependency as either a physical or mental

condition and may consider a chemical dependency evaluation as either a physical or mental examination.

Sec. 11. Section 232.116, subsection 3, paragraph c, Code 1985, is amended to read as follows:

c. There is clear and convincing evidence that the parents ~~had received or~~ were offered but refused services or failed to cooperate to correct the situation which led to the abuse or that the parents had received services to correct the situation which led to the abuse but the services did not correct the abusive situation.

Sec. 12. Section 232.133, subsection 1, Code 1985, is amended to read as follows:

1. ~~Any~~ An interested party aggrieved by ~~any~~ an order or decree of the juvenile court may appeal from the court for review of questions of law or fact. However, an order adjudicating a child to have committed a delinquent act, entered pursuant to section 232.47, shall not be appealed until the court enters a corresponding dispositional order pursuant to section 232.52.

Approved May 7, 1986

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## CHAPTER 1187

### AUTOMOTIVE FLUIDS SALES TAX EXEMPTION

*S.F. 106*

**AN ACT** to provide a specific exemption to the sales and use tax relative to gross receipts from the sale of automotive fluids and providing retroactive effect.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 422.45, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 22. The gross receipts from the sale of automotive fluids to a retailer to be used either in providing a service which includes the installation or application of the fluids in or on a motor vehicle, which service is subject to section 422.43, subsection 11, or to be installed in or applied to a motor vehicle which the retailer intends to sell, which sale is subject to section 423.7. For purposes of this subsection, automotive fluids are all those which are refined, manufactured or otherwise processed and packaged for sale prior to their installation in or application to a motor vehicle. They include, but are not limited to motor oil and other lubricants, hydraulic fluids, brake fluid, transmission fluid, sealants, undercoatings, antifreeze and gasoline additives.

Sec. 2. This Act is retroactive to January 1, 1979.

Approved May 7, 1986

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## CHAPTER 1188

### FIRE SERVICE INSTITUTE

*S.F. 293*

**AN ACT** creating a fire service institute.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 266.40 SHORT TITLE.

This division shall be known and may be cited as the "Iowa fire service institute Act".